

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JANE DOE 1, individually, and on behalf of all others  
similarly situated, JANE DOE 2, individually and on  
behalf of all others similarly situated, JANE DOE 3,  
individually and on behalf of all others similarly situated,  
JANE DOE 4, individually and on behalf of all others  
similarly situated and JANE DOE 5, individually and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

GOVERNMENT OF THE UNITED STATES VIRGIN  
ISLANDS, FIRST LADY CECILE DE JONGH,  
GOVERNOR KENNETH MAPP, SENATOR  
CELESTINO WHITE, ATTORNEY GENERAL  
VINCENT FRAZER, GOVERNOR JOHN DE JONGH,  
SENATOR CARLTON DOWE, DELEGATE STACEY  
PLASKETT, and JOHN DOES 1-100,

Defendants.

No.: 1:23-cv-10301-AS

**GOV. DE JONGH JR.'S  
NOTICE OF MOTION TO  
DISMISS, TRANSFER, 2ND  
AMENDED COMPLAINT  
[ECF # 112]**

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PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, exhibits  
and other papers in Support of Defendant Governor John de Jongh Jr.'s (hereinafter referred to as  
"JdJ") Motion to Dismiss/Transfer/Strike, JdJ will move this Court, before the Honorable Arun  
Subramanian, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New  
York, New York 10007, on **July 31, 2024 at 1:00 p.m.**, or at a date and time to be determined by  
the Court, for an order **dismissing, transferring, and/or striking** the *Second Amended  
Complaint and Demand for Jury Trial* (hereinafter referred to as the "SAC") filed 5/24/2024 at  
ECF #112, pursuant to:

*First*..... Fed.R.Civ.P. 8, to **dismiss** the SAC for excessive length and prolixity;

*Second*. .... Fed.R.Civ.P. 8, to **dismiss** for failure to meet minimum pleading  
requirements (despite its excess length);

*Third.*..... Fed.R.Civ.P. 12(b)(1) and 12(h), U.S. Const. art. 3, § 2, cl. 1 (“Article III” or “AIII”), to **dismiss** the SAC for failure to plead, and lack of subject

matter jurisdiction, Article III standing, and failure to plead causation;

*Fourth.*..... Fed.R.Civ.P. 12(b)(2) to **dismiss** the SAC for lack of personal jurisdiction over defendant Mr. de Jongh;

*Fifth.*..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1406 to **dismiss** the SAC for improper/wrong venue, and failure to plead venue;

*Sixth.* ..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1406, if not dismissed for improper/wrong venue, to **transfer** the case to the District Court of the Virgin Islands, St. Thomas/St. John Vicinage (“D.V.I.”), for improper venue, wrong venue, and failure to plead venue;

*Seventh.* ..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1404 (*only if the Court first finds venue proper*) to **transfer** the case to the District Court of the Virgin Islands, St. Thomas/St. John Vicinage (“D.V.I.”), for convenience / in the interests of justice;

*Eighth.* ..... Fed.R.Civ.P. 12(b)(6) and 8, to **dismiss** the SAC for failure to state a claim as to all Causes of Action (“COAs”), including, *but not limited to*:

- 1st Cause of Action: Failure to State Participation in TVPRA Trafficking Venture;
- 2nd Cause of Action: Failure to State Conspiracy to Violate TVPRA;
- 3rd Cause of Action: Failure to State Obstruction of Enforcement of TVPRA;
- 4th Cause of Action: Failure to State Civil RICO Cause of Action; Failure to State RICO “Enterprise” Pursuant to 18 U.S.C. § 1961;

Association-in-Fact; Enterprise; RICO Conspiracy;

- 5th Cause of Action: Failure to State Negligence, Duty, Breach, Causation;
- Failure to plead duty, e.g., USVI Territorial Attorney General enforces TVPRA, not governor;
- Failure to plead causation;
- Improper group pleading; “victims” not defined; “co-conspirators” not defined;
- Statute of Limitations defenses apparent from face of SAC;
- The plaintiffs released their claims;
- Failure to identify conduct before/after JdJ’s term as governor;
- Failure to distinguish pre-TVPRA conduct, and post-TVPRA conduct by dates;

*Ninth.*..... Fed.R.Civ.P. 12(b)(7), 19, to **dismiss** the SAC for failure to join an indispensable party;

*Tenth.* ..... Fed.R.Civ.P. 8, and 12(f), to **strike** immaterial, impertinent, and scandalous allegations of arrest and loans;

*Eleventh.* ..... New York and/or Virgin Islands statutes of limitations, to **dismiss** the SAC on any of the above grounds with prejudice, because the ASA’s one-year “lookback” window expired on 11/24/2023 and any re-filed Complaint would be out of time;

*Twelfth.*..... Sovereign Immunity and the Virgin Islands Tort Claims Act (“VITCA”), to **dismiss** the SAC;

*Thirteenth.....* The grounds raised in the co-defendants' filed and forthcoming motions to dismiss to the extent they apply to JdJ;

*Fourteenth.....* **Barring** the plaintiffs from amending and refileing the SAC due to plaintiffs' failure to correct errors in pleadings despite having notice of pleading deficiencies;

*Fifteenth.....* Pursuant to this Court's Civil Individual Practices; this Court's Local Civil Rules; Fed.R.Civ.P. 1; and this Court's inherent authority; and

*Sixteenth. ....* For such other and further relief as this Honorable Court deems necessary and just.

**JOINDER IN / INCORPORATION OF FILED AND  
FORTHCOMING CO-DEFENDANTS' MOTIONS TO DISMISS**

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Defendant JdJ also hereby **joins in** and **incorporates by reference** all other co-defendants' already-filed and forthcoming motions to dismiss, the arguments therein, to the extent they apply to JdJ, as if fully restated at length in JdJ's moving papers, including, *but not limited to*, defendant Stacey Plaskett's ("Plaskett") motion to dismiss, ECF ## 117, and Memorandum of Law ("Plaskett Memo"), ECF # 118.

Dated: *July 2, 2024*  
New York, New York



A handwritten signature in blue ink, appearing to read "D. Cevallos", written over a horizontal line.

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Admitted Pro Hac Vice [ECF #21]

*Attorneys for Governor John de Jongh, Jr.*

### **AFFIRMATION OF SERVICE**

I, Daniel L. Cevallos, Esq., declare under penalty of perjury that on the below date, I served a copy of the foregoing by e-filing the same on the SDNY's CM-ECF system, which will send a notice of electronic filing (NEF) to all parties who have appeared, including the plaintiffs:

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*Attorneys for the Plaintiffs*

Dated: *July 2, 2024*  
New York, New York



  
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Daniel L. Cevallos, Esq.

**AFFIRMATION OF COMPLIANCE WITH PAGE LIMITS/FORMATting**

The undersigned hereby confirms that the attached Memorandum of Law complies with Judge Subramanian's Individual Practices in Civil Cases, Rule 8(C). It is 20 pages (excluding tables, captions, and signature lines). The attached papers also comply with Local Civil Rule 11.1.

Dated: *July 2, 2024*  
New York, New York



  
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Daniel L. Cevallos, Esq.